

AMENDED IN ASSEMBLY APRIL 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1067

Introduced by Assembly Member Shirley Horton
(Coauthors: Assembly Members Benoit, Dutton, and Pacheco)
(Coauthors: Senators Battin and Denham)

February 20, 2003

An act to amend Section 1210 of the Penal Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1067, as amended, Shirley Horton. Nonviolent drug possession: GHB, rohypnol, and ketamine.

(1) Existing law categorizes controlled substances into Schedules I to V, inclusive, and places the greatest restrictions and penalties on those contained in Schedule I. Existing law, added by initiative statute, generally provides that, effective July 1, 2001, (a) a person convicted of a nonviolent drug possession offense shall receive probation with completion of a drug treatment program as a condition of that probation, and (b) a person's parole may not be suspended or revoked for committing a nonviolent drug possession offense or for violating a drug-related condition of parole, but an additional condition of parole for those offenses or violations shall be the completion of a drug treatment program. Existing law defines the term "nonviolent drug possession offense" to include the unlawful possession, use, or transportation for personal use of any controlled substance classified in Schedules I to V, inclusive.

This bill would exclude the drugs GHB, rohypnol, and ketamine, as specified, from coverage by the term “nonviolent drug possession offense.” By increasing the number of people convicted of unlawful drug possession who would be subject to incarceration rather than drug treatment, this bill would impose a state mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) Because this bill would add provisions that supplement provisions of the above-mentioned initiative, it would amend that initiative statute and, in accordance with the requirements of that initiative statute, would require a $\frac{2}{3}$'s vote for enactment by the Legislature.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1210 of the Penal Code is amended to
2 read:

3 1210. Definitions

4 As used in Sections 1210.1 and 3063.1 of this code, and
5 Division 10.8 (commencing with Section 11999.4) of the Health
6 and Safety Code:

7 (a) The term “nonviolent drug possession offense” means the
8 unlawful possession, use, or transportation for personal use of any
9 controlled substance identified in Section 11054, 11055, 11056,
10 11057 or 11058 of the Health and Safety Code, not including
11 gamma hydroxybutyric acid (also known as GHB) as specified in
12 paragraph (3) of subdivision (e) of Section 11054, ketamine as
13 specified in subdivision (g) of Section 11056, or rohypnol (also
14 known as flunitrazepam) as specified in paragraph (13) of
15 subdivision (d) of Section 11057; or the offense of being under the
16 influence of a controlled substance in violation of Section 11550
17 of the Health and Safety Code. The term “nonviolent drug
18 possession offense” does not include the possession for sale,



1 production, or manufacturing of any controlled substance and
2 does not include violations of Section 4573.6 or 4573.8.

3 (b) The term “drug treatment program” or “drug treatment”
4 means a state licensed ~~and/or~~ *or* certified community drug
5 treatment program, which may include one or more of the
6 following: outpatient treatment, half-way house treatment,
7 narcotic replacement therapy, drug education or prevention
8 courses ~~and/or~~ *or* limited inpatient or residential drug treatment
9 as needed to address special detoxification or relapse situations or
10 severe dependence. The term “drug treatment program” or “drug
11 treatment” includes a drug treatment program operated under the
12 direction of the Veterans Health Administration of the Department
13 of Veterans Affairs or a program specified in Section ~~8001~~ *such*
14 ~~a 8001 either of which~~ program shall be eligible to provide drug
15 treatment services without regard to the licensing or certification
16 provisions required by this subdivision. The term “drug treatment
17 program” or “drug treatment” does not include drug treatment
18 programs offered in a prison or jail facility.

19 (c) The term “successful completion of treatment” means that
20 a defendant who has had drug treatment imposed as a condition of
21 probation has completed the prescribed course of drug treatment
22 and, as a result, there is reasonable cause to believe that the
23 defendant will not abuse controlled substances in the future.

24 (d) The term “misdemeanor not related to the use of drugs”
25 means a misdemeanor that does not involve (1) the simple
26 possession or use of drugs or drug paraphernalia, being present
27 where drugs are used, or failure to register as a drug offender, or
28 (2) any activity similar to those listed in paragraph (1).

29 SEC. 2. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.